

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:16-CV-00861-GCM**

ROBERT C. BARCHIESI, and LEJLA )  
HADZIC, Individually and in a )  
representative capacity on behalf of a class )  
of all persons similarly situated, )  
Plaintiffs, )  
vs. )  
CHARLOTTE SCHOOL OF LAW, LLC )  
and INFILAW CORPORATION, )  
Defendants. )

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:17-CV-00190-GCM**

SPENCER KREBS, et al.,  
Plaintiffs,  
vs.  
CHARLOTTE SCHOOL OF LAW, LLC, et  
al.,  
Defendants.

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:17-CV-00026-GCM**

RAISSA LEVY, JAMES VILLANUEVA,  
SHANNA RIVERA, and ANDRÉ  
MCCOY, individually and on behalf of all  
similarly situated persons,  
Plaintiffs,  
vs.  
CHARLOTTE SCHOOL OF LAW, LLC,  
and INFILAW CORPORATION,  
Defendants.

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:17-CV-00039-GCM**

LEAH ASH,  
Plaintiff,  
vs.  
CHARLOTTE SCHOOL OF LAW, LLC,  
INFILAW, INC., and DOES 1 – 20, et al.,  
Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF  
CONSENTED TO MOTION FOR COURT ORDER  
ALLOWING DEFENDANTS TO RELEASE EDUCATION RECORDS  
UNDER THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

Pursuant to Local Rule of Civil Procedure 7.1 and the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §§ 1232g(b)(2) and 1232g(d), Defendants move this Court to enter an order allowing Defendants to release education records protected under FERPA to Plaintiffs and their counsel in this litigation. Pursuant to Local Rule of Civil Procedure 7.1(b),

on January 23, 2018, Defendants conferred with Plaintiffs. Plaintiffs consent to this Motion. In support of this Motion, Defendants state as follows:

1. On December 13, 2017, Plaintiffs<sup>1</sup> served Defendants with their First Set of Requests for Production of Documents. Discovery officially began on December 18, 2017, when this Court entered a Pretrial Order and Case Management Plan. LCvR 26.1; *Barchiesi*, DE 74; *Krebs*, DE 120; *Levy*, DE 80; *Ash*, DE 27. On January 16, 2018, Plaintiffs served Defendants with their Second Set of Requests for Production of Documents (together with the First Set of Requests for Production of Documents, the “Requests”).

2. Plaintiffs’ Requests seek documents that include “education records” as defined by FERPA, 20 U.S.C. § 1232g(a)(2)(A), from former Charlotte School of Law (“CSL”) students.

3. Under the present circumstances, there are two applicable options under FERPA, 20 U.S.C. § 1232g(b)(2), for release of the student education records. FERPA permits Defendants to release student education records: (1) pursuant to a judicial order, provided that students are notified of such order in advance of the release of the education records; or (2) with the student’s consent. 20 U.S.C. § 1232g(b)(2).

4. Documents responsive to the Requests or pertinent to efforts to settle this litigation will contain education records from former CSL students. It would be impractical and unduly burdensome for Defendants to obtain consent to release education records from thousands of former students who attended CSL. Additionally, attempting to obtain consent from all former CSL students would dramatically delay Defendants’ production of documents.

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<sup>1</sup> “Plaintiffs” refers to plaintiffs in *Barchiesi v. Charlotte School of Law*, Case No. 3:16-CV-00861-GCM, *Krebs v. Charlotte School of Law*, Case No. 3:17-CV-00190-GCM, *Levy v.*

FERPA would require Defendants to wait for each student to sign and return a consent form for the release of records before it would allow Defendants to disclose these documents to Plaintiffs.

5. Therefore, Defendants request that this Court enter an order permitting Defendants to release education records to Plaintiffs and their counsel in the Actions.<sup>2</sup> Pursuant to the governing Protective Order,<sup>3</sup> “[a]ny information or documents that are subject to the Family Educational Rights and Privacy Act (“FERPA”) are considered confidential with such exceptions as noted within the statute itself.” Protective Order, ¶ 7.

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*Charlotte School of Law*, Case No. 3:17-CV-00026-GCM, and *Ash v. Charlotte School of Law*, Case No. 3:17-CV-00039-GCM (collectively, the “Actions”).

<sup>2</sup> CSL will notify former students of this Court’s order in advance of release of the education records by sending a copy of the Court’s order to former students.

<sup>3</sup> *Barchiesi*, DE 72, ¶ 7. In accordance with the Protective Order’s case caption, the Protective Order also applies to *Krebs*, *Levy*, and *Ash*.

This the 26th day of January.

Respectfully submitted,

**Cooley LLP**

/s/ David E. Mills

David E. Mills (admitted *pro hac vice*)  
Michael D. Hays (admitted *pro hac vice*)  
1299 Pennsylvania Ave., NW, Suite 700  
Washington, D.C. 20004  
Tel: (202) 776-2865  
Fax: (202) 842-7899  
Email: dmills@cooley.com  
mhays@cooley.com

Robert T. Cahill (admitted *pro hac vice*)  
11951 Freedom Drive, 14<sup>th</sup> Fl.  
Reston, Virginia 20190  
Tel: (703) 456-8000  
Fax: (703) 456-8100  
Email: rcahill@cooley.com

**Womble Bond Dickinson (US) LLP**  
Sarah M. Stone, NCSB No. 34117  
Debbie W. Harden, NCSB No. 10576  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, North Carolina 28202  
Tel: (704) 331-4943  
Fax: (704) 338-7813  
Email: Debbie.Harden@wbd-us.com  
Sarah.Stone@wbd-us.com

Johnny M. Loper, NCSB No. 15533  
555 Fayetteville Street, Suite 1100  
P.O. Box 831  
Raleigh, North Carolina 27601  
Tel: (919) 755-2116  
Fax: (919) 755-6056  
Email: Johnny.Loper@wbd-us.com

*Attorneys for Defendants Charlotte School of Law, LLC,  
InfiLaw Corporation, Jay Conison, and Chidi Ogene*

## CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, a true and correct copy of the foregoing was filed with the Clerk of Court through the CM/ECF system, which will send electronic filing to all counsel or parties of record on the service list below:

H. Forest Horne, Jr.  
John Alan Jones  
Karl Joseph Amelchenko  
Steven Dennis Corriveau  
Martin & Jones, PLLC  
410 Glenwood Avenue, Suite 200  
Raleigh, NC 27603  
hfh@m-j.com, jaj@m-j.com, kja@m-j.com, sdc@m-j.com  
*Attorneys for Barchiesi Plaintiffs*

Douglas B. Abrams  
Noah B. Abrams  
Abrams & Abrams, P.A.  
1526 Glenwood Avenue  
Raleigh, NC 27608  
dabrams@abramslawfirm.com  
nabrams@abramslawfirm.com  
*Attorneys for Krebs Plaintiffs*

Anthony J. Majestro  
Powell & Majestro, PLLC  
405 Capitol Street, Suite P-1200  
Charleston, WV 25301  
amajestro@powellmajestro.com  
*Attorney for Krebs Plaintiffs*

Brian Leighton Kinsley  
Daniel Ray Francis  
Crumley Roberts  
2400 Freeman Mill Road, Suite 200  
Greensboro, NC 27406  
blkingsley@crumleyroberts.com  
drfrancis@crumleyroberts.com  
*Attorneys for Levy Plaintiffs*

Gary K. Shipman  
Kyle Joseph Nutt  
Angelique Adams  
Shipman & Wright, LLP  
575 Military Cutoff Road, Suite 106  
Wilmington, NC 28405  
gshipman@shipmanlaw.com,  
knutt@shipmanlaw.com,  
aadams@shipmanlaw.com  
*Attorneys for Barchiesi Plaintiffs*

Timothy C. Bailey  
Taylor M. Norman  
Bailey Javins & Carter, LC  
213 Hale Street  
Charleston, WV 25301  
tbailey@bjc4u.com  
tnorman@bjc4u.com  
*Attorneys for Krebs Plaintiffs*

Robert Andre Fleury, Jr  
Crumley Roberts  
817 E. Morehead St., Suite 100  
Charlotte, NC 28207  
rafleury@crumleyroberts.com  
*Attorney for Levy Plaintiffs*

Philip Bohrer  
Scott E. Brady  
Bohrer Brady LLC  
8712 Jefferson Highway, Suite B  
Baton Rouge, LA 70809  
phil@bohrerbrady.com  
scott@bohrerbrady.com  
*Attorneys for Levy Plaintiffs*

Amanda A. Mingo  
Rawls, Scheer, Foster, Mingo, & Culp,  
PLLC  
1011 E. Morehead Street, Suite 300  
Charlotte, NC 28204  
amingo@rsfmlaw.com  
*Attorney for Levy Plaintiffs*

Michael John Messinger  
Law Offices of Michael Messinger,  
PLLC  
6135 Park South Dr., Suite 510  
Charlotte, NC 28210  
MichaelMessingerLaw@gmail.com  
*Attorney for Ash Plaintiff*

/s/ David E. Mills  
David E. Mills

*Attorney for Defendants Charlotte School of Law, LLC,  
InfiLaw Corporation, Jay Conison, and Chidi Ogene*

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